

REMARKS/ARGUMENTS

Claims 1-13 are amended to use wording and structure consistent with U.S. patent law practice and to eliminate multiple dependencies.

Claims 6-9 have been amended to be stated in a form consistent with U.S. patent law practice.

Claims 10-13 have been restated as method claims.

Claims 7-9 are amended to be drawn to a composition of at least one peptide and depend directly or indirectly from Claim 1.

Claims 14-29 are new and are supported by original Claims 7-13.

Claims 22-25 are drawn to a method comprising the composition of polypeptides and depend directly or indirectly from Claims 1 and 7.

Claims 14-21 and 26-29 are drawn to polynucleotide compositions and are directly or indirectly dependent upon Claim 6.

No new matter is believed added in this amendment.

The claims in this case are restricted to one of two Groups as follows:

Group I: Claims 1-5 and 7-9, drawn to MHC I-restricted, EphA2-derived T-cell immunogenic peptides and compositions thereof.

Group II: Claims 6-9, drawn to polynucleotides encoding MHC I-restricted, EphA2-derived T-cell immunogenic peptides and compositions thereof.

Applicants have provisionally elected Group I, Claims 1-5 and 7-9 for examination.

The Restriction Requirement is traversed. Applicants respectfully submit that amended claims 10-13 and new claims 22-25 should be examined with the elected Group I, as they directly or indirectly depend from Claim 1.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the examiner if restriction is not required (MPEP § 803). The burden is on the Examiner to provide reasons and/or

examples to support any conclusions in regard to patentable distinction. Moreover when making lack of unity of invention, in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group (i.e. why there is no single inventive concept), specifically describing the unique special technical feature in each group (MPEP § 1893.03(d)).

To establish lack of unity of invention, the Office has cited three prior art references (Lindberg et al., Parker et al., and Renkvist et al.) which, according to the Office, when combined, render the special technical feature of the present invention obvious. Applicants submit that there is no disclosure nor suggestion in the cited prior art to combine their technical features in the manner of the present invention and therefore the statement of lack of unity made by the Office based on obviousness is not properly supported. The MPEP (§1850) states:

“Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor maintained on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search or in accordance with PCT Article 33(6) . . .”

Applicants submit that the Office has not applied the same standard of unity of invention as the International Preliminary Examination Authority, which did not take the position that unity of invention was lacking in the International application and examined all the claims together.

Moreover, Applicants submit that the Office has not shown that a burden exists in searching the entire application. The MPEP (§ 803) states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office.

For the reasons set forth above, Applicants submit that the Office has not met the burden necessary in order to sustain the Restriction Requirement. Accordingly, Applicants submit that withdrawal of the Restriction Requirement should be made.

Applicants submit that the above-identified application is now in condition for examination on the merits and early notice thereof is earnestly solicited.

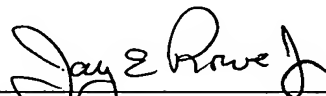
Respectfully submitted,

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